APPENDIX A – ZONING AND LAND USE CODE ARTICLE VIII. BOARD OF APPEALS

Sec. 1. Purpose.

The purpose of this article is to establish the authority and responsibilities of the board of appeals for the administration and enforcement of this Code.

Sec. 2. Authority.

The board of appeals created by Section 4.06 of the Charter shall serve as the board of appeals under this Code and shall hear and decide those appeals set forth in this section.

Sec. 3. Organization and rules.

- (a) The board of appeals shall conduct its meetings in accordance with the provisions of 30-A M.R.S.A. section 2691, and chapter 2, article IV, division 2, of the Code of Ordinances as amended.
- (b) The board of appeals shall adopt rules of procedure to aid it in the orderly conduct of its meetings.

Sec. 4. Power and duties.

The board of appeals shall have the following powers and duties under this Code:

- (1) Administrative appeals. To affirm, modify, or reverse the action of the code enforcement official in issuing or denying any building permit, certificate of occupancy, other permit, order, requirement, decision, determination or interpretation in the enforcement of this Code. No administrative appeal shall lie to the board of appeals from a determination of the planning board. An administrative appeal shall be taken within 30 days of the date of the decision or action of the enforcement official, or within 60 days of the date of application, if no action has been taken thereon, unless otherwise specified by law. The filing of an administrative appeal shall not stay the administrative action form which said appeal is taken.
- (2) Variances. To approve, approve with conditions, or disapprove appeals for variances from the strict enforcement of only the provisions of this Code which relate to the space and bulk standards of the district regulations (article XI), and/or floodplain management and administration standards (article XIV). The board of appeals is not empowered to grant a variance to allow a use in a district in which it is not allowed under the district regulations of article XI.
- (3) Changes from one nonconforming use to another nonconforming use, or for the reestablishment of an abandoned nonconforming use. To approve, approve with conditions, or disapprove requests to change a nonconforming use to a new nonconforming use or for the reestablishment of an abandoned nonconforming use, pursuant to article VI of this Code.
- (4) Determination of zoning boundaries. To interpret the boundaries of land use districts shown on the "official zoning map" in accordance with the standards set forth in article IV of this Code when there is uncertainty about the location of a

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district boundary.

- (5) Appeals of staff decisions on development reviews. To affirm, modify or reverse the action of the staff review committee in approving or denying applications for development review and approval of minor projects when the applicant or any party to the action appeals the decision of the committee as provided for in article VIII.
- (6) Conditional use permits. To hear and decide applications for conditional use permits in accordance with the standards and procedures set forth in articles IX and X of this Code unless the development is a major development as defined in article XIII of this Code.
- (7) *Modification of off-street parking standards*. To hear and decide requests for modifications of the requirements of article XII, subsections 17(e) and (h).
- (8) *Modification of fence and wall standards*. To hear and decide requests for modifications of the requirements of article XII, section 7, of this Code relative to walls and fences.
- (9) Appeals of historic preservation review board actions on certificates of appropriateness. To affirm, modify or reverse the actions of the historic preservation review board in issuing or denying certificates of appropriateness as provided for in article XV.
- (10) *Modifications*. The board shall hear and decide requests for the reduction of the provisions under article XI, sections 1 through 14, district regulations, with respect to space and bulk standards for setbacks, yards, maximum lot coverage ratios, maximum impervious surface ratios, open space requirements and maximum building height.

The board of appeals may not further reduce space and bulk requirements already reduced pursuant to the cluster provisions found under article XIII, sections 7 and 9; or reduce the minimum lot size, minimum setback and minimum yard requirements of article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to article V, subsections 3(q) and (t), respectively.

The board of appeals may not further reduce space and bulk requirements already reduced pursuant to the cluster provisions found under article XIII, sections 7 and 9; or reduce the minimum lot size, minimum setback and minimum yard requirements of article XI for single-family cluster developments, mixed residential developments, mixed single-family residential developments and mobile home parks as they apply to the development in its entirety as if it were a single unit; or further modify yard and setback reductions allowed for awning and canopy installations, and existing service stations, pursuant to article V, subsections 3(q) and (t), respectively.

(Ord. No. 89-3, 4-7-89; Ord. No. 90-10, 10-4-90; Ord. No. 91-1, 3-19-91; Ord. No. 91-2, 3-19-91; Ord. No. 91-5, 5-16-91; Ord. No. 94-17, 11-17-94; Ord. No. 98-6, 7-2-98; Ord. No. 99-11, 5-20-99; Ord. No. 06-05, 4-20-06)

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